

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STEVEN E. RILEY,,

Petitioner,

v.

M. STAINER, Warden,

Respondent.

Case No.: 15cv2938 DMS (KSC)

**ORDER (1) ADOPTING IN PART
AND DENYING IN PART
MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION AND
(2) DISMISSING PETITION
WITHOUT PREJUDICE**

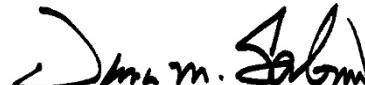
On December 28, 2015, Petitioner Steven E. Riley (“Petitioner”), a state prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 30, 2016, Magistrate Judge Karen Crawford issued a Report and Recommendation (“R&R”) recommending that the Court deny the petition. Petitioner filed objections to the R&R on February 10, 2017. Respondent did not file a reply to those objections, and the time for doing so has expired.

This Court, having reviewed *de novo* the Magistrate Judge’s R&R and Petitioner’s objections thereto, agrees with Magistrate Judge that this case does not fall within the core of habeas corpus. In light of that finding, the Magistrate Judge recommended that the petition be denied, but the Court finds it more appropriate to dismiss the petition without

1 prejudice.¹ Accordingly, the petition is dismissed without prejudice for the reasons set out
2 in the R&R. The Court finds no basis for a certificate of appealability.

3 **IT IS SO ORDERED.**

4 Dated: March 24, 2017



5 _____
6 Hon. Dana M. Sabraw
United States District Judge

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27 ¹ The Court notes Petitioner has another case pending in this Court, *Riley v. Kernan*,
28 16cv405 MMA (JMA), alleging claims under 42 U.S.C. § 1983.